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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/191,520	11/13/1998	JOHN S. HENDRICKS	SEDN/001SEDN	8726

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EXAMINER	
KOENIG, ANDREW Y	
ART UNIT	**PAPER NUMBER**
2623	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/191,520	Applicant(s) HENDRICKS ET AL.	
	Examiner Andrew Y. Koenig	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 19 July 2006 have been fully considered but they are not persuasive.

With respect to the rejection under 35 U.S.C. § 112:
The applicant argues that claims 70 and 138 explicitly claims "the program is listed in a program guide broadcast to the first terminal by the broadcaster" and "the program guide is broadcast to the first terminal" respectively, and the applicant provides support for these limitations on pg. 34, line 1-3, pg. 32, line 4 - pg. 82, line 9, and pg. 34, lines 18-28. However, the examiner still disagrees that these limitations are taught. Whereas it is recognized that the program guide is downloaded (pg. 34, lines 1-3) and that the program can be ordered for another device (pg. 34, lines 18-28), the claims require the guide to be "broadcast." The support relied only teaches downloading the program guide. The examiner notes that "downloading" does not equate to "broadcasting."

The applicant argues that claim 142 has support and relies upon pg. 36, ll. 26-29, pg. 40, ll. 14-17, pg. 36, ll. 26-29, pg. 49, ll. 11-17. The examiner disagrees; the relied upon portions fail to support a first terminal requesting a program for a second terminal, wherein a code is sent to both the first and second terminal in response to a (single) request. Whereas, the portions support ordering a program from one device for another, the specification does not have the claim details codes with respect to a first and second terminal as claimed.

With respect to the rejection under 35 U.S.C. § 103:
Regarding claim 1, the applicant argues that neither Boyer nor Bestler teach "a transmitter that sends a program selection to a remote site, wherein the program selection is made from the program data received by the first receiver module and contains the address of the second receiver module." The examiner disagrees; Boyer teaches a personal computer (first receiver module) order pay-per-view events via Internet web pages (pg. 9, para. 0131-0133), wherein the headend equipment directs equipment (such as a set top box) to display the ordered event (pg. 9, para. 0132), which contains the address (such as a telephone number or personal identification number box (fig. 31, label 372, pg. 9, para. 0131), which is information used to identify the receiving terminal. Clearly, Boyer teaches a message containing an address of the second receiver (television) by performing the act of directing equipment to display the ordered event (pg. 9, para. 0132). Consequently, the applicant's argument is not persuasive.

Regarding claims 4 and 17, the applicant argues that U.S. Patent 5,600,364 to Hendricks (Hendricks '364) and the instant application were at the time the invention was made, owned by, or subject o an obligation of assignment to, the same person, as they are both assigned to Discovery Communications, Inc. of Bethesda, MD at the time invention was made, thereby should be disqualified under 103(c). The examiner disagrees; as the effective date for the claim is 13 November 1998. U.S. Patent 5,600,364 was published 04 February 1997, which is publicly available prior to the effective filing date of the instant claim. 103(c) disqualifies art under 102(e), but not 102 (a/b), such as in the instant case.

Regarding claims 5-8, 10, and 11, the arguments are moot in that the combination of Boyer and Bestler teach the limitation in question.

Regarding claims 67-70, 85, 97, and 169-174, Boyer teaches, as discussed above, the limitations in question for independent claims 67 and 169. The discussion of 103 (c) with respect to Hendricks ('364) is discussed above.

Regarding claims 60 and 115, the applicant argues that U.S. Patent 5,734,853 to Hendricks (Hendricks '853) and the instant application were at the time the invention was made, owned by, or subject o an obligation of assignment to, the same person, as they are both assigned to Discovery Communications, Inc. of Bethesda, MD at the time invention was made, thereby should be disqualified under 103(c). The examiner disagrees; as the effective date for the claim is 13 November 1998. U.S. Patent 5,734,853 was published 31 March 1998, which is publicly available prior to the effective filing date of the instant claim. 103(c) disqualifies art under 102(e), but not 102 (a), such as in the instant case.

Regarding claims 86 and 116, the discussion of Hendricks '364 and Hendricks '853 is discussed above.

The applicant has traversed the following official notices:
- Official Notice is taken that digital televisions are well known in the art
  U.S. Patent 5,515,098 to Carles, already of record teaches a digital television (col. 4, ll. 50-65).
- Official Notice is taken that debiting accounts and charging credit cards is well known in the art.
  U.S. Patent 5,477,263 to O'Callaghan et al., already of record, teach paying using a credit or debit card (col. 8, ll. 9-13).

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